

EXHIBIT 1

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

12 IN RE: HIGH-TECH EMPLOYEE
13 ANTITRUST LITIGATION

Master Docket No. 11-CV-2509-LHK

14 THIS DOCUMENT RELATES TO:
15 ALL ACTIONS

**[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENTS**

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17 This matter is before the Court on Plaintiffs' motion for final approval of the proposed
18 class action settlements (the "Settlements") between individual and representative Plaintiffs
19 Michael Devine, Mark Fichtner, Siddharth Hariharan, and Daniel Stover ("Plaintiffs") and the
20 Class they represent, and Intuit Inc., Lucasfilm, Ltd., and Pixar (collectively the "Settling
21 Defendants").¹ Having considered the Motion, the Settling Parties' Settlement Agreements, the
22 pleadings and other papers filed in this Action, the statements of counsel and the parties, and all
23 of the arguments and evidence presented at the Final Approval Hearing held on May 1, 2014, and
24 for good cause shown, IT IS HEREBY ORDERED as follows:

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28 ¹ Representative Plaintiff Brandon Marshall died on December 10, 2013, while these Settlements
were pending before this Court. Mr. Marshall's estate shall receive the settlement share that Mr.
Marshall is entitled to pursuant to the terms of the Settlements.

1 1. Unless otherwise defined herein, all terms that are capitalized herein shall have the
2 meanings ascribed to those terms in the Settlement Agreements.

3 2. The Court has jurisdiction over the subject matter of the Settlement Agreements
4 with respect to and over all parties to the Settlement Agreements, including all Class members
5 and Settling Defendants Pixar, Lucasfilm, Ltd., and Intuit, Inc.

6 3. The Court confirms its October 30, 2013 Order granting conditional class
7 certification to the Settlement Class.

8 **I. The Settlement Is Fair, Adequate, and Reasonable**

9 4. In evaluating a proposed class action settlement under Federal Rule of Civil
10 Procedure 23(e), the standard is whether the settlement “is fundamentally fair, adequate, and
11 reasonable.” *Officers for Justice v. Civil Serv. Comm’n*, 688 F.2d 615, 625 (9th Cir. 1982);
12 *accord Torrissi v. Tucson Elec. Power Co.*, 8 F.3d 1370, 1375 (9th Cir. 1993). A district court
13 may consider some or all of the following factors when making this determination: “the strength
14 of plaintiffs’ case; the risk, expense, complexity, and likely duration of further litigation; the risk
15 of maintaining class action status throughout the trial; the amount offered in settlement; the extent
16 of discovery completed and the stage of the proceedings; the experience and views of counsel; the
17 presence of a governmental participant; and the reaction of the class members to the proposed
18 settlement.” *Officers for Justice*, 688 F.2d at 625. The Court finds that the Settlements are fair,
19 adequate, and reasonable in light of these factors.

20 5. First, the Settlements reflect the strength of Plaintiffs’ case as well as the Settling
21 Defendants’ position. This Court has been “exposed to the litigants and their strategies, positions
22 and proof,” *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1988) (quotation marks and
23 citation omitted), and finds that the judicial policy favoring the compromise and settlement of
24 class action suits is applicable here. *See Class Plaintiffs v. City of Seattle*, 955 F.2d 1268, 1276
25 (9th Cir. 1992). The Court is also satisfied that the Settlements were reached after arm’s length
26 negotiations by capable counsel, and were not a product of fraud, overreaching, or collusion
27 among the parties. *Id.* at 1290.
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1 6. Second, the risks of ongoing litigation also support the Court's final approval of
 2 the Settlements. Plaintiffs and the Settling Defendants entered into the Settlements after the
 3 Court had largely denied Plaintiffs' Class Certification Motion without prejudice, and before the
 4 Court ruled on Plaintiffs' Supplemental Class Certification Motion. Through the Settlements, the
 5 parties have reduced the scope of the ongoing litigation and lessened the expense and burden of
 6 summary judgment and trial.

7 7. Third, the Settlements provide for substantial consideration—a total of \$20 million
 8 (\$9 million from Pixar and Lucasfilm and \$11 million from Intuit)—particularly in light of the
 9 fact that the Settling Defendants collectively account for less than 8% of Class members, and
 10 together account for approximately 5% of total Class compensation. The Settling Defendants
 11 have also agreed to cooperate with Plaintiffs in terms of authenticating documents and providing
 12 the last known contact information for current or former employee-witnesses for notice or
 13 subpoena purposes to the extent consistent with California law. *In re Mid-Atlantic Toyota*
 14 *Antitrust Litig.*, 564 F. Supp. 1379, 1386 (D. Md. 1983). In return, Plaintiffs have agreed to a
 15 reasonable and fair release of claims against the Settling Defendants. Moreover, the Settlements
 16 preserve Plaintiffs' ability to pursue all damages caused by the conspiracy, including damages
 17 from the Settling Defendants' conduct, from the Non-Settling Defendants, who remain jointly and
 18 severally liable. *In re Corrugated Container Antitrust Litig.*, No. M.D.L. 310, 1981 WL 2093, at
 19 *17 (S.D. Tex. June 4, 1981).

20 8. Fourth, the views of Plaintiffs' counsel, who are experienced in litigating and
 21 settling antitrust class actions, weigh in favor of final approval. *Linney v. Cellular Alaska P'Ship*,
 22 No. 96-3008-DJL, 1997 WL 450064, at *5 (N.D. Cal. July 18, 1997), *aff'd* 151 F.3d 1234 (9th
 23 Cir. 1998). Plaintiffs' counsel have conducted an extensive investigation into the factual and
 24 legal issues raised in this Action and endorse the Settlements as fair, adequate, and reasonable.

25 9. Finally, the reaction of the Class members supports the Court's final approval of
 26 the Settlements. Only 167 Class members have opted out of the Settlements, while 10,634 Class
 27 members have filed claim forms. Only five Class members have objected to the Settlements. Mr.
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Sanocki and Mr. Brown object to the amount of the Settlement fund, stating that it should be greater in order to deter anticompetitive behavior in the future. However, these objections do not account for the fact that the Settlements preserve the Class's ability to seek the full amount of estimated damages from the remaining Defendants, including estimated damages resulting from the Settling Defendants' misconduct. Moreover, the Settlements are appropriate in light of the factors addressed above, including the amount recovered and the risks Plaintiffs face in pursuing their claims. Ms. Merrell and Mr. Grosse appear to object not to the terms of these Settlements, but to the litigation itself and any possible settlement of the action. These objections are inconsistent with the Class's interests and contradict the judicial policy favoring settlement of class actions. *City of Seattle*, 955 F.2d at 1276. As to Mr. Minshall's objection, which seeks more salary information and argues that the settlements should have covered employees across more companies, the Court notes that the parties' briefs presenting their experts' analysis of salary data, antitrust impact, and damages were all publicly available, and that the litigation itself is limited to the seven companies and Class titles certified. Mr. Minshall is seeking something that is not possible in this lawsuit. Therefore, the Court finds that there are no objections to the substance of the Settlements that cast doubt on their fairness, adequacy, and reasonableness.

10. Accordingly, the Court finds that the Settlements are fair, adequate, and reasonable within the meaning of Rule 23(e) of the Federal Rules of Civil Procedure.

II. The Notice Program Was Appropriate

11. Federal Rule of Civil Procedure 23(c)(2)(B) requires that the settling parties provide settlement class members with "the best notice that is practicable under the circumstances, including individual notice to all members who can be identified through reasonable effort. The notice must clearly and concisely state in plain, easily understood language: (i) the nature of the action; (ii) the definition of the class certified; (iii) the class claims, issues, or defenses; (iv) that a class member may enter an appearance through an attorney if the member so desires; (v) that the court will exclude from the class any member who requests

1 exclusion; (vi) the time and manner for requesting exclusion; and (vii) the binding effect of a
 2 class judgment on members under Rule 23(c)(3).”

3 12. The Court finds that the notice program, approved by the Court on October 30,
 4 2013, has been implemented and complies with Fed. R. Civ. P. 23(c)(2)(B). Notice was sent to
 5 all Class members by first class mail. The notice provided a clear description of who is a member
 6 of the Class and Class members’ rights and options under the Settlements. The notice explained
 7 how to file a claim and receive money from the Settlements, how to opt out of one or both of the
 8 Settlements, how to object to one or both of the Settlements, how to obtain copies of relevant
 9 papers filed in the case, and how to contact Class Counsel and the Claims Administrator.

10 13. In addition, the Court-approved Claims Administrator set up a telephone hotline
 11 and a case-specific website (the address of which was included in the notice) where Class
 12 members can access copies of the Settlement Agreements; the notice; the claim form; the Court’s
 13 order certifying the litigation Class; the Court’s order preliminarily approving the Settlements;
 14 and Plaintiffs’ motion for attorneys’ fees, reimbursement of expenses, and service awards (and
 15 supporting declarations of Class Counsel and the Class Representatives). Class members could
 16 file claims by mail or electronically on the website. Class members could opt out of or object to
 17 the Settlements by mail or by email. Though the opt-out email address was not functioning for
 18 the first three weeks of the notice period, the problem was addressed by a reminder notice sent to
 19 Class members that explained the problem with the opt-out email address and its restored
 20 functionality, and informed them of extended dates for exercising their rights under the
 21 Settlements. There is no evidence that any Class member wanted to opt out but was unable to do
 22 so.

23 **III. The Plan of Allocation Is Fair, Reasonable, and Adequate**

24 14. The Plan of Allocation is fair, reasonable, and adequate. It will provide each
 25 claimant with a fractional share based upon each claimant’s total base salary received during the
 26 conspiracy period. *See In re Oracle Sec. Litig.*, No. 90-0931-VRW, 1994 U.S. Dist. LEXIS
 27 21593, at *3 (N.D. Cal. June 18, 1994) (“A plan of allocation that reimburses class members
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1 based on the extent of their injuries is generally reasonable.”). The Plan of Allocation here is a
 2 simple, efficient way to allocate the Settlement funds to claimants based on the extent of their
 3 injuries, which are proportional to their differing salaries. The Court also notes that there will be
 4 no reversion of unclaimed funds to any Settling Defendant. Accordingly, the Plan of Allocation
 5 is approved.

6 **IV. Final Judgment And Dismissal**

7 15. By means of this Final Approval Order, the Court hereby enters final judgment in
 8 this action as between Plaintiffs and the Class and Settling Defendants, as defined in Federal Rule
 9 of Civil Procedure 58(a)(1).

10 16. All Released Claims of Plaintiffs and the Class are hereby released as against
 11 Intuit, Lucasfilm, and Pixar and all other Released Parties as defined in the Settlements.

12 17. The Court finds that the Class members who have exercised their right to exclude
 13 themselves from this Action, by submitting timely requests for exclusion pursuant to the notice
 14 mailed to the Class, are not included in or bound by this order and final judgment.

15 18. Without affecting the finality of the Court’s judgment in any way, the Court
 16 retains jurisdiction over this matter for purposes of resolving issues relating to the interpretation,
 17 administration, implementation, effectuation, and enforcement of the Settlements.

18 19. The parties and the Claims Administrator are hereby ordered to comply with the
 19 terms of the Settlements.

20 20. This action is dismissed with prejudice as against the Settling Defendants, each
 21 side to bear its own costs and attorneys’ fees except as provided by the Settlements and the
 22 Court’s orders.

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 26 Dated: _____, 2014

 LUCY H. KOH
 United States District Judge